

**REMARKS/ARGUMENTS**

The above-identified patent application has been reviewed in light of the Examiner's Non-Final Office Action dated October 27, 2006. The Examiner has objected to drawings for failing to show every claimed feature of the invention. As described in greater detail below, it is submitted that the drawings do illustrate every claimed feature of the invention. Claim 1 has been cancelled without intending to abandon or to dedicate to the public any patentable subject matter. Claims 2-4, 6, 9, 11, 15, and 19 have been amended. Claim 32 is new. Accordingly, Claims 2-32 are now pending. As set forth herein, reconsideration and withdrawal of the rejections of the claims are respectfully requested.

The Examiner has rejected Claims 1-8 under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,413,476 to Barnhart ("Barnhart"). Claims 9, 11, 13-14 and 16-18 stand rejected under 35 U.S.C. 103(a) as being unpatentable over Barnhart in view of European Patent No. 0 836 856 to Mitsuharu ("Mitsuharu"). Claims 10 and 12 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnhart and Mitsuharu in further view of U.S. Patent No. 6,090,349 to Hirano ("Hirano"). Claim 15 is rejected under 35 U.S.C. 103(a) as being unpatentable over Barnhart in view of U.S. Patent No. 4,739,928 to O'Neil ("O'Neil"). Claims 19-20, 22 and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnhart in view of U.S. Patent No. 5,647,052 to Patel ("Patel"). Claims 21 and 23-24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnhart and Patel in further view of U.S. Patent No. 6,389,739 to Borut ("Borut"). Claims 27 and 28 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnhart and Patel in further view of U.S. Patent No. 6,637,350 to McKsymick ("McKsymick"). Claims 25-26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnhart in view of Borut. Claims 29 and 30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Barnhart in view of McKsymick.

The present invention is directed to an inventive incense burner that contains an upper frame unit and a control part. A pillar part is disposed between the upper frame unit and the control part. Additionally, a lower frame is disposed at the base of the incense burner. The upper frame unit is associated with a heater cover and a top cover having a vertically piercing opening. The heater cover is disposed beneath and in supportive arrangement with heater springs, a heater plate and other

components that supply heat to a container that contains aromatic material. The top cover is disposed over at least a portion of the heating plate to hold it in position against the action of the heater springs. The top cover also includes a vertically piercing opening that at least allows the container to contact the heating plate. The pillar part encloses a light source. The pillar part and the light source are together enclosed by an outer surface. This arrangement, referred to herein as a "double structure", prevents the temperature external to the incense burner from increasing due to the action of the burner. The control part includes a slider that operates to disable the power supply when the burner is upset or otherwise moved into an unsafe position.

### **Objections to the Drawings**

The Examiner has objected to the drawings for failing to illustrate every feature of the invention that is specified in the claims. In particular, it is required that the vertically piercing opening must be shown or this feature must be cancelled from the claims.

It is respectfully submitted that the drawings do in fact show the vertically piercing opening. The original figures show the top cover having a vertically piercing opening (See for example Figs. 2 and 4). Figs. A and B below show an illustration of the top cover having a vertically piercing opening. Figs. 1-5 illustrate the same top cover as it appears when incorporated with other components of the invention. As can be seen, the vertically piercing opening, when in use, is closed or substantially closed by the container 103, the heating plate 105, and the heater 107, which are inserted therein. As can be appreciated from a comparison of Fig. A and B to original Figs. 2 and 4, the top cover having a vertically piercing opening is indeed illustrated.

Additionally, the Applicants have identified a minor error in Fig. 3. Accordingly, a replacement sheet for Fig. 3 has been submitted along with an annotated sheet that shows the change to the drawing. As can be seen from annotated sheet, the previous Fig. 3 contains an extraneous line between the top cover 111 and the container 103. The extraneous line was an inadvertent typographical error and, as such, its removal does not constitute new matter.

Fig.A

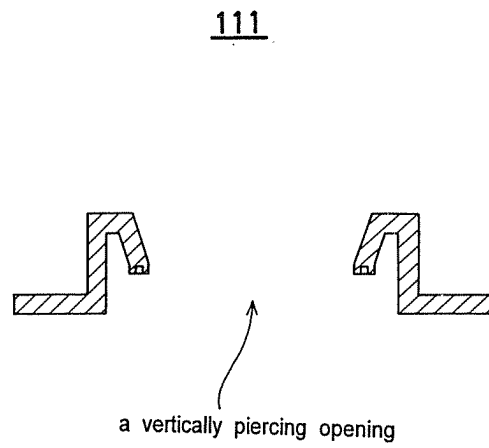
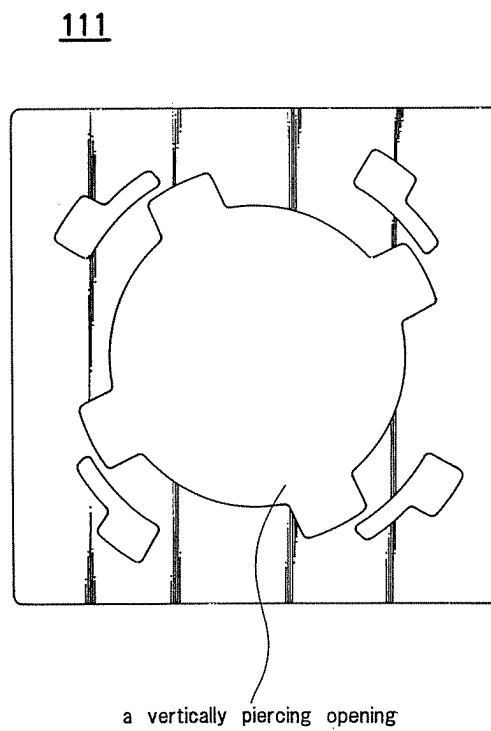


Fig.B



**Rejections under 35 U.S.C. 102(e)**

Claims 1-8 stand rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent No. 6,413,476 to Barnhart (“Barnhart”). In view of the Examiner’s rejection, Claim 1 has been cancelled. Dependent Claims 2-8, which previously depended from Claim 1, now depend, directly or indirectly from Claim 16. Claim 16 recites a top cover having a vertically piercing opening. As this feature cannot be found in Barnhart, the rejections under 35 U.S.C. 102(e) should be withdrawn. The non-obviousness of Claim 16 and claims that depend from Claim 16 is argued in greater detail below.

**Rejections under 35 U.S.C. 103(a)**

As detailed above, the Examiner has issued various rejections of Claims 2-31 under 35 U.S.C. §103(a) including citations of numerous references. As argued herein, independent Claims 16, 19, 25, and 29 are non-obvious over the prior art of record. Furthermore, it is submitted that the remaining claims are non-obvious as they depend from non-obvious base claims. To establish a prima facie case of obviousness under 35 U.S.C. §103(a), the Examiner must show that 1) the references teach all of the elements of the claimed invention, 2) the references contain some teaching, suggestion or motivation to combine the references, and 3) the references suggest a reasonable expectation of success. See MPEP §2142. See also In re Vaeck, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991); In re Kotzab, 217 F.3d 1365, 55 USPQ2d 1313 (Fed. Cir. 2000). As argued herein, it respectfully submitted that the Examiner has failed to show that the cited references disclose all of the elements of the claimed invention.

In rejecting Claim 16, the Examiner has cited the combination of Barnhart and Mitsuharu. Mitsuharu is cited for its disclosure of a PTC heater. Specifically, the Examiner has stated that the top cover of the claimed invention corresponds to the sheath 17 of Fig. 8B of Mitsuharu. However, as the sheath is disposed underneath the heating plate, it corresponds to the heater cover of the claimed invention. A top cover, as recited by the claimed invention, is not disclosed by Mitsuharu. Accordingly, Mitsuharu and the claimed invention recite different elements that are used to maintain the position of the heating plate and the heater. In particular, the device disclosed by Mitsuharu

includes a heating plate that is directly fixed to the heat insulating sheath, and a heater that is directly fixed to the heating plate. More particularly, the device disclosed by Mitsuharu includes fixed connections that maintain the positions of components of the device including the heating plate. In contrast, the claimed invention includes a top cover and a heater cover that together maintain the position of the heater and the heating plate. In particular, the heater cover supports heater springs that support a heating plate and other components, while the top cover contacts the heating plate to maintain or regulate it in position against at least the action of the springs. Furthermore, as the device disclosed by Mitsuharu does not include a top cover, this device does not prevent the user from touching the high-temperature heating plate. Accordingly, for at least the reason that neither Barnhart nor Mitsuharu disclose a top cover, it is respectfully submitted that Claim 16 is non-obvious over the cited references.

In rejecting Claim 19, the Examiner has cited the combination of Barnhart and Patel. Barnhart is cited for its disclosure of specific structural elements. In particular, the Examiner has stated that the device disclosed by Barnhart includes a light source that is encircled by a pillar that is further encircled by an outer frame. More particularly, the Examiner has stated that the components identified by reference numbers 11 and 4 of Barnhart correspond to the pillar and light source of the claimed invention. As described in col. 4., ln 27-28, the component identified by reference number 11 is a light source. From an inspection of Fig. 3, it appears that the component identified by reference number 4 is a cover for the light source 11. While the specification of Barnhart lacks a specific description of the component identified by reference number 4, it is apparent that it is not a pillar as recited by the claimed invention. Accordingly, the claimed invention and the device disclosed by Barnhart differ from each other with respect to the components that make up the housing. In particular, the claimed invention recites a double structure including a pillar part and an outer frame encircling the outside of the pillar part. This double structure prevents the temperature outside of the outer frame from increasing. In contrast, the device disclosed by Barnhart recites a device having only a single structure. As shown in Fig. 2, Barnhart discloses a housing 12 similar to the outer frame of the claimed invention. However, Barnhart fails to disclose a pillar part. As a result, the single structure disclosed by Barnhart does not prevent temperatures outside of the

housing from increasing. Similarly, Patel discloses a single structure only, and fails to disclose a double structure as recited by the claimed invention. Accordingly, for at least the reason that neither Barnhart nor Patel disclose a pillar part, it is respectfully submitted that Claim 19 is non-obvious over the cited references.

In rejecting Claim 25, the Examiner has cited the combination of Barnhart and Borut. Borut is cited for its disclosure of a pillar part having a plurality of arm parts with attachment pieces. In particular, the Examiner has stated that the cover 14 having a plurality of arm parts 26 corresponds to the pillar part of the claimed invention. As can be appreciated from an inspection of Figs. 1 and 2 and from the description in the specification at col. 3, ln. 66 through col.4 ln. 5, the cover 14 is not a pillar as recited by the claimed invention. As described above, the pillar part is disposed on the interior of an outer frame. The pillar part and the outer frame together form a double structure that prevents temperatures outside the frame from increasing due to the operation of the device. Accordingly, for at least the reason that neither Barnhart nor Borut disclose a pillar part disposed on the interior of an outer frame, it is respectfully submitted that Claim 25 is non-obvious over the cited references.

In rejecting Claim 29, the Examiner has cited the combination of Barnhart and McKsymick. McKsymick is cited for its disclosure of a sliding member 70. McKsymick is directed to a portable computer and projector stand. As described in the specification at col. 4, ln. 29 through col.5, ln. 7, the sliding member 70 is a telescoping leg for the computer and projector stand. The sliding member 70 disclosed by McKsymick differs from the slider recited by the present invention in many respects. In particular, the slider of the present invention operates to disable the power supply when the device falls down, tilts or otherwise moves into an unsafe position. More particularly, the claimed invention has a switch for controlling the power supplied to a heating body that heats an aroma material, and a first urging member for urging a slider downwards. When the incense burner is placed on a level plane, a lower end of the slider reaches a level of approximately the same as a bottom part of the housing. As a result the switch is turned on. When the incense burner falls down or is upset such that it no longer maintained on a level plane, the slider is projected from the bottom opening by the first urging member to turn off the switch. Thus, the slider is automatically moved

according to a vertical orientation of the incense burner, and the slider can prevent the heating body from continuing to heat the aroma material after the incense burner falls down. In contrast, sliding member disclosed by McKsymick does not automatically move according to a vertical orientation of the table. Accordingly, the device disclosed by Barnhart as modified in view McKsymick would not include a slider that is automatically moved so as to control the power supplied to the heating body according to a vertical orientation of the incense burner. Accordingly, for at least the reason that neither Barnhart nor McKsymick disclose slider operable to control a power supply, it is respectfully submitted that Claim 25 is non-obvious over the cited references.

Furthermore, it argued that the McKsymick reference is non-analogous art. Specifically, the McKsymick reference is related to portable tables, while the present invention is directed to an incense burner. In order to rely on a reference as a basis for rejection of the Applicants' invention, the reference must either be in the field of the Applicants' endeavor or, if not, then be reasonably pertinent to the particular problem with which the inventor was concerned. In re Oetiker, 977 F.2d 1443, 23 USPQ2d 1443 (Fed. Cir. 1992). See MPEP §2141.01(a).

As set forth above, it submitted that all of the pending independent claims are non-obvious over the prior art of record. Additionally, it is submitted that all the pending dependent claims are novel and non-obvious, as they depend, directly or indirectly, from novel and non-obvious base claims. For at least these reasons, reconsideration and withdrawal of the rejections under 35 U.S.C. 102(e) and 35 U.S.C. 103(a) is respectfully requested. In particular, the cited references fail to disclose at least the following italicized features of independent Claims 16, 19, 25, and 29:

16. An incense burner comprising:
  - a heater;
  - a heating plate;
  - a top cover having a vertically piercing opening which has an inner fringe part provided along a periphery of the opening for holding said heating plate so that it may not escape upwards, and a lateral part for holding said heating plate and said heater stored in the opening from a bottom and for regulating positions of these components directly or by the aids of other components so that they may not move in a lateral direction or rotate;*
  - a heater spring for urging said heater to a direction of said heating plate; and
  - a heater cover fixed on an underside of said top cover for providing an approximately closed space defined between said top cover and said heater cover,

which accommodates at least said heater spring, said heater and said heating plate, wherein said heater cover supports said heater spring upwards.

19. An incense burner comprising:  
an upper frame unit comprising on its top a heating body which heats an aroma material;  
a light source;  
*a pillar part made from transparent or translucent material, having a pillar and a light source cover for covering the light source inside of the pillar;*  
an outer frame made from transparent or translucent material encircling an outer side of said pillar; and  
a lower frame unit for covering a bottom side opening of said outer frame, wherein said outer frame is sandwiched between said upper frame unit and said lower frame unit, and  
said lower frame unit is fixed to said pillar part with a fastening member.

25. An incense burner comprising: an upper frame unit having a heating body for heating an aroma material; *a pillar part; an outer frame disposed outside of said pillar part;* and a lower frame unit, wherein said pillar part is combined with said upper frame unit, and  
said pillar part is combined with said lower frame unit in a state where said outer frame is sandwiched between a peripheral part of said upper frame unit and a peripheral part of said lower frame unit.


29. An incense burner comprising:  
a heating body for heating an aroma material;  
a switch for controlling power supply to said heating body;  
a housing having an opening on its bottom;  
*a slider partly stored in said housing for operating said switch directly or through a switch manipulation part and whose lower end projects downwards from said bottom opening; and*  
*a first urging member for urging said slider downwards, wherein in a state where the incense burner is placed on a plane, a lower end of said slider reaches a level of approximately the same as a bottom part of said housing and said switch permits power supply to said heating body and*  
*in a state where the incense burner falls down, said slider projects more from said bottom opening by being urged by said first urging member, compared with a referred state where the incense burner is placed on a plane, and said switch shuts off power supply to said heating body.*

*Application No. 10/625,948*

Based upon the foregoing, Applicants believe that all pending claims are in condition for allowance and such disposition is respectfully requested. In the event that a telephone conversation would further prosecution and/or expedite allowance, the Examiner is invited to contact the undersigned.

Respectfully submitted,

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